

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 19-CR-1304 JB

JESUS MIXTEGA-VILLEGAS,

Defendant.

**STIPULATED MOTION TO VACATE OCTOBER 21, 2019 HEARING AND TO
DENY AS MOOT THE MOTION TO COMPEL DISCOVERY**

COMES NOW Defendant Jesus Mixtega-Villegas, by and through his legal counsel, Justine Fox-Young and Marshall J. Ray, and submits this Stipulated Motion to Vacate October 21, 2019 Hearing and to Deny as Moot the Motion to Compel Discovery, which was originally set forth in the Motion to Suppress Evidence Obtained After Illegal Impounding, Inventory, and Search of Mr. Mixtega-Villegas' Vehicle and Motion to Compel Discovery and Supporting Memorandum (Doc. 29). As grounds for the motion, Defendant states:

1. On July 5, 2019, Defendant, through his previous counsel, submitted his Motion to Suppress Evidence Obtained After Illegal Impounding, Inventory, and Search of Mr. Mixtega-Villegas' Vehicle and Motion to Compel Discovery and Supporting Memorandum (Doc. 29). The Court has scheduled a hearing on October 21, 2019 to address Doc. 29.

2. The July 5, 2019 motion requested two different forms of relief. First, it sought the suppression of evidence seized pursuant to an inventory search of Defendant's

vehicle during the March 2, 2019 traffic stop that triggered the investigation leading to this case. Second, the motion asks the Court to compel the United States to produce certain items of discovery, including recordings, reports, and notes related to the stop and subsequent arrests, and all *Brady*, *Giglio*, and Rule 16 material.

3. After Defendant filed the motion, attorneys Justine Fox-Young and Marshall J. Ray substituted into the case as counsel for Defendant. Since entering the case on behalf of Defendant, attorneys Fox-Young and Ray have been conferring in good faith with the United States regarding the outstanding discovery dispute. The United States in turn participated in good faith in discussions regarding discovery, and, as a result, the parties have resolved the currently pending discovery issues.

4. The United States made multiple attempts to produce outstanding video and audio evidence of original arrest. On October 11, 2019, at the request of the United States, the Albuquerque Police Department granted Defense attorneys access to the video footage stored in a proprietary on-line system called Evidence.com.

5. There are no remaining discovery disputes at this time. The Court should therefore deny the discovery motion set forth in Doc. 29 as moot, given that the parties have resolved the dispute.

6. Having reviewed the recently produced evidence, Defendant determined that it was appropriate to withdraw the current pending Motion to Suppress Evidence (also set forth in Doc. 29). Accordingly, on October 16, 2019, Defendant submitted a Notice of Withdrawal of the Motion to Suppress Evidence. Defendant intends to file an amended motion to suppress based on the newly disclosed evidence.

7. Because the discovery issues have been resolved by agreement of the parties, and because Defendant has withdrawn the Motion to Suppress Evidence, Defendant requests that the October 21, 2019 hearing be vacated and that another hearing be set once Defendant files his amended motion to suppress evidence (the motions deadline is November 18, 2019).

8. The United States concurs with this motion.

WHEREFORE, Defendant Jesus Mixtega-Villegas respectfully requests that the Court deny his motion to compel discovery as moot, and that the Court vacate the October 21, 2019 hearing which was originally set to address both motions contained in Doc. 29.

Respectfully submitted,

/s/ Marshall J. Ray
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CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was served as sealed to opposing counsel via the CM/ECF system on this 16th day of October 2019.

/s/ electronically filed
Marshall J. Ray